

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

In re:

Case No. 13-21977

MICHAEL B. WHITE and
DARLA K. WHITE,

Chapter 7

Debtors.

Honorable Daniel S. Opperman

ORDER REGARDING DEBTOR MICHAEL WHITE'S MOTION (DOCKET NO. 866) FOR
CLARIFICATION/RECONSIDERATION OF MARCH 4, 2019 ORDER REGARDING
DEBTOR'S MOTION FOR CLARIFICATION/CORRECTION FILED ON JANUARY 10,
2019

Debtor Michael White timely files this Motion for Clarification/Reconsideration of this Court's Order entered on March 4, 2019 Regarding Debtor's Motion for Clarification/Correction of its July 31, 2018 Order Regarding Trustee's Objection to Debtors' Seventh Amended Exemptions.¹ In his Motion, Debtor Michael White requests that this Court correct any reference to him filing amended exemptions on August 8, 2017, at Docket No. 714. Mr. White asserts that he never filed amended exemptions in this pleading, and even if he did, such were withdrawn by a pleading filed on May 14, 2018, Docket No. 817. He requests that any reference to him filing amended exemptions on this date be removed and and that this be clarified by an order of this Court.

Pursuant to Rule 9024-1(a) of the Local Rules for the U.S. Bankruptcy Court for the Eastern District of Michigan, a motion for reconsideration may be filed within fourteen (14) days after the order to which it objects is issued. It should be granted if the movant demonstrates that the Court and the parties have been misled by a palpable defect and that a different disposition of the case must result from a correction of such palpable defect. A motion that merely presents the

¹ The Court held this matter in abeyance due to an appeal pending with the Sixth Circuit Court of Appeals, which was potentially related to this Motion. A decision was entered on that appeal on May 2, 2019, and a Mandate issued by the Sixth Circuit Court of Appeals on May 24, 2019.

same issues already ruled upon by the Court, either expressly or by reasonable implication, shall not be granted. To establish a “palpable defect,” the moving party generally must point to a: “(1) clear error of law; (2) newly discovered evidence; (3) an intervening change in controlling law; or (4) a need to prevent manifest injustice.” *Henderson v. Walled Lake Consol. Schools*, 469 F.3d 479, 496 (6th Cir. 2006) (quoting *Intera Corp. v. Henderson*, 428 F.3d 605, 620 (6th Cir. 2005) (analyzing “palpable defect” standard in the context of a Federal Rule of Civil Procedure 59(e) motion to alter or amend judgment, which was held to be consistent with the applicable local rule “palpable defect” reconsideration standard). A “palpable defect” is “obvious, clear, unmistakable, manifest, or plain.” *Michigan Dept. of Treasury v. Michalec*, 181 F. Supp. 2d 731, 734 (E.D. Mich. 2002) (citing *Marketing Displays, Inc. v. Traffix Devices, Inc.*, 971 F. Supp. 2d 262, 278 (E.D. Mich. 1997)).

The Court has reviewed the record in this case, and concludes that all findings of fact relevant to this Court's conclusions are accurately stated in the Court’s July 31, 2018 Order, as clarified in its March 4, 2019 Order. It is a fact that Debtor Michael White signed an Amended Schedule C on August 8, 2017 (Docket No. 714). It is also a fact that while there was a withdrawal of these Amended Exemptions on May 14, 2018, such was limited to the Amended Exemptions of Debtor Darla White, by and through her counsel of record. The Court notes that the amendments of Debtor Michael White did not change any exemptions of Mr. White substantively and, thus, did not have, and continues not to have, any practical effect on Mr. White’s exemptions. This was ordered in the March 4, 2019 Order with the clarification that “any previously allowed exemptions of Debtor Michael White [prior to the Amended Exemptions filed at Docket No. 714] remain allowed.” Further, if there is any clarification needed regarding any previously allowed exemptions of Darla White, the Court will clarify that

any previously allowed exemptions of Darla White shall remain allowed. Thus, there has been no palpable defect warranting a different disposition. There is no other basis to grant Debtor Michael White's Motion pursuant to Rule 59, Rule 60, or Local Rule 9024-1.

ACCORDINGLY, IT IS HEREBY ORDERED that Debtor Michael White's above-titled Motion is DENIED, with the exception of the following clarification: Any previously allowed exemptions of Debtor Darla White prior to the withdrawn Amended Exemptions filed at Docket No. 714, remain allowed;

IT IS FURTHER ORDERED that the language of the July 31, 2018 Order at Docket No. 824, as clarified by the Court's March 4, 2019 Order at Docket No. 864 shall remain as stated in both Orders.

Signed on August 01, 2019



/s/ Daniel S. Opperman

**Daniel S. Opperman
United States Bankruptcy Judge**